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Item 8 of the provisional agenda

CONSIDERATION OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE

Note by the secretariat

Addendum

Conclusions and recommendations of United Nations meetings of experts on issues relating to indigenous people

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I. UNITED NATIONS SEMINAR ON THE EFFECTS OF RACISM AND RACIAL DISCRIMINATION ON THE SOCIAL AND ECONOMIC RELATIONS BETWEEN INDIGENOUS PEOPLES AND STATES

(Geneva, 16-20 January 1989)

CONCLUSIONS

40. The Seminar concludes that:

(a) Indigenous peoples have been and still are the victims of racism and racial discrimination, and of the imposition of arbitrary and imposed administrations and regimes which inevitably deny their human rights and fundamental freedoms;

(b) The concepts of "terra nullius", "conquest" and "discovery" as modes of territorial acquisition are repugnant, have no legal standing, and are entirely without merit or justification to substantiate any claim to jurisdiction or ownership of indigenous lands and ancestral domains, and the legacies of these concepts should be eradicated from modern legal systems;

(c) Colonial laws and colonial concepts are used to justify the imposition of "trusteeship", and other demeaning, prejudicial and racially founded systems which prevent indigenous peoples from exercising their human rights and fundamental freedoms, and result in their impoverishment, disenfranchisement, debasement, demoralization and disintegration;

(d) The effective protection of the individual human rights and fundamental freedoms of indigenous peoples cannot be realized without the recognition of their collective rights;

(e) The principle of self-determination as set forth in the Charter of the United Nations and in article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights is essential to the enjoyment of all human rights by indigenous peoples. Self-determination includes, inter alia, the right and power of indigenous peoples to negotiate with States on an equal basis the standards and mechanisms that will govern relationships between them;

(f) Racial prejudice, injustice, and economic, social and political deprivation, have destroyed and marginalized indigenous peoples and their economies;

(g) Treaties and agreements between indigenous peoples and States, and treaties between States that affect indigenous peoples, should be subject to international supervision to secure their enforcement;

(h) Racism and racial discrimination against indigenous peoples are practised through the rejection of indigenous economic, cultural, and social values, and the utilization of so-called "modern" economic and social justifications for development, land expropriation, labour exploitation, and other practices which destroy indigenous economies and societies;

(i) Indigenous rights issues are not generally well known or understood because the public lacks the necessary information on these rights. This shortcoming may itself lead to racism and racial discrimination.

(j) Indigenous identity and cultural survival has been threatened through the deprecation and suppression of indigenous languages, spiritual and religious practices;

(k) Indigenous peoples are not racial, ethnic, religious and linguistic minorities;

(l) In certain States the indigenous peoples constitute the majority of the population, and in certain States indigenous peoples constitute the majority in their own territories;

(m) Indigenous control over their own affairs and destiny is essential for the elimination of the effects of racism and racial discrimination on economic and social relations between States and indigenous peoples;

(n) States' respect for implementation of the collective rights of indigenous peoples would make a significant contribution to avoiding conflict, alleviating the adverse social and economic conditions in which indigenous peoples live and achieving indigenous peoples' self-sufficiency.

RECOMMENDATIONS

41. The Seminar:

(a) Recommends that States implement the principle that their relations with indigenous peoples will be based upon free and informed consent, and cooperation, rather than merely consultation and participation and that this be respected as a right;

(b) Recommends that indigenous peoples be recognized as proper subjects of international law;

(c) Confirms the need to recognize the collective rights of indigenous peoples;

(d) Calls upon the international community, particularly States, to explicitly recognize indigenous rights, and apply comprehensively existing international human rights instruments for the promotion and protection of the rights of indigenous peoples; and recommends that appropriate and practical mechanisms for assuring compliance should be established; calls upon those States which have not yet acceded to the relevant international human rights instruments, including the two International Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights, to do so and to implement them accordingly;

(e) Supports the decision by the Working Group on Indigenous Populations that the drafting of a Universal Declaration on Indigenous Rights should be completed, with full indigenous participation, at the earliest possible time and should be the first step in standard-setting in the field of

indigenous rights; the adoption and proclamation by the General Assembly of the Declaration should be followed by the elaboration and adoption of an International Convention on the Rights of Indigenous Peoples; the Draft Universal Declaration is strongly supported in principle as a most positive contribution;

(f) Recognizes that a limited monitoring capacity has been established at the international level, but calls for more efficient and comprehensive means of monitoring, for example, through the appointment of a United Nations Commissioner for Indigenous Peoples to prevent violations of indigenous rights;

(g) Recommends that a commissioner should be appointed by the Secretary-General and be attached to the United Nations Centre for Human Rights, in order to study the treatment, problems and developments concerning the recognition, protection, realization and restoration of indigenous rights; and to prepare, when necessary, reports with comments, observations and suggestions to the Commission on Human Rights and to the Governments concerned;

(h) Confirms the need to devise new communications procedures, to facilitate and maximize the access of indigenous peoples to these procedures, at the United Nations, its affiliated agencies, and other organs; with a view to providing redress for grievances;

(i) Requests that the United Nations undertake, in consultation with indigenous non-governmental organizations, a public information programme on the rights of indigenous peoples, and assure the dissemination of information on indigenous rights as widely as possible;

(j) Requests that United Nations seminars and training courses in the field of human rights should be held within indigenous communities;

(k) Calls for the establishment of programmes of affirmative action on the part of international, regional and national organizations and Governments, for the practical realization of indigenous rights;

(l) Cites the utility of coordinated action in the field of indigenous rights by international, regional and intergovernmental organizations;

(m) Demands full recognition of and respect for the right to human dignity of all indigenous peoples and particularly the individual and collective right of indigenous peoples to life;

(n) Urgently calls upon the international community to take immediate measures to assure that the basic rights of indigenous peoples to food, shelter, health care and other basic needs are realized and treated with the highest priority, and that adequate resources are allocated with the full consent of indigenous peoples;

(o) Recommends that indigenous peoples should be entitled to long-term sustainable incomes by their communities without external interference;

(p) Demands that all States and relevant entities recognize and respect indigenous rights to lands and resources, and provide for just restitution and compensation for past infringements of such rights;

(q) Recognizes the fundamental relationship between respect for indigenous rights, and protection of the world's environment and recommends that this relationship be recognized explicitly in the work of the United Nations Environment Programme, in cooperation with indigenous peoples' organizations;

(r) Condemns the imposition of non-indigenous social, cultural and economic judgements and values upon indigenous peoples, and calls for the prohibition of assistance and support by United Nations agencies and other international, regional and national organizations for projects and development that threaten the human rights and fundamental freedoms of indigenous peoples, or adversely affect indigenous social, cultural, and economic rights;

(s) Urges full recognition of the indigenous right to development, and the requirement for the full participation and consent of indigenous peoples in the selection, planning, implementation, and evaluation of development projects, consistent with the indigenous right to benefit from and control their own lands and resources;

(t) Requests that every possible effort be taken by States, national, regional and international organizations, to prevent foreign or alien adoption of indigenous children, which is prohibited as a genocidal practice;

(u) Recommends the incorporation of indigenous rights in the work of all States and international organizations involved with the development process, with the direct participation of indigenous peoples, and calls for closer cooperation among States and international organizations to utilize their resources more effectively to promote indigenous peoples' rights;

(v) Requests the Secretary-General to organize an international conference with the participation of competent United Nations organs and bodies of the United Nations system, Governments and indigenous peoples in order to develop concrete measures for the implementation of recommendation (u);

(w) Recommends that the advisory services programme of the United Nations in the field of human rights, and other international technical assistance programmes, should be made available to indigenous peoples to promote and protect human rights;

(x) Calls upon States and all international agencies to include indigenous rights and indigenous participation as a key component of development planning, in particular, in national development plans and regional and global development strategies; and to emphasize their interrelationship with human resource development;

(y) Requests that Governments recognize that the realization of indigenous rights in the economic, social, and cultural field will result in breaking the cycle of poverty and misery;

(z) Requests the Secretary-General to give the widest possible distribution to the report of this Seminar, including the distribution of the report to the General Assembly at its forty-fourth session, the Commission on Human Rights at its forty-fifth session, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities at its forty-first session, and the Working Group on Indigenous Populations, Governments and competent international and regional organizations; and that the present report be issued as a United Nations publication.

II. MEETING OF EXPERTS ON INDIGENOUS INTERNAL AUTONOMY AND SELF-GOVERNMENT

(Nuuk, Greenland, 24-28 September 1991)

54. At its 9th and 10th meetings, held on 28 September 1991, the Meeting of Experts considered and adopted the following conclusions and recommendations:

THE NUUK CONCLUSIONS AND RECOMMENDATIONS ON INDIGENOUS AUTONOMY AND SELF-GOVERNMENT

The United Nations Meeting of Experts, meeting at Nuuk, Greenland, from 24 to 28 September 1991, recognizes that indigenous peoples are historically self-governing with their own languages, cultures, laws and traditions.

The Meeting of Experts shares the view that indigenous peoples constitute distinct peoples and societies, with the right to self-determination, including the rights of autonomy, self-government, and self-identification.

The Meeting of Experts recognizes that serious problems faced by indigenous peoples are specific for each country and region of the world and there cannot be a single and uniform solution for them. On this basis the Meeting adopts the following conclusions and recommendations to be implemented with due consideration to the specificity of each situation, without detracting from the established minimum standards set out in international instruments on human rights:

I

1. The self-determination of peoples is a precondition for freedom, justice and peace, both within States and in the international community.

2. Indigenous peoples have the right to self-determination as provided for in the International Covenants on Human Rights and public international law and as a consequence of their continued existence as distinct peoples. This right shall be implemented with due consideration to other basic principles of international law. An integral part of this is the inherent and fundamental right to autonomy and self-government.

3. Self-government, self-administration and self-management of indigenous peoples constitute elements of political autonomy. The realization of this right should not pose a threat to the territorial integrity of the State.

4. For indigenous peoples, autonomy and self-government are prerequisites for achieving equality, human dignity, freedom from discrimination and the full enjoyment of all human rights.

5. Indigenous territory and the resources it contains are essential to the physical, cultural and spiritual existence of indigenous peoples and to the construction and effective exercise of indigenous autonomy and self-government. This territorial and resource base must be guaranteed to these peoples for their subsistence and the ongoing development of indigenous societies and cultures. Where appropriate the foregoing should not be interpreted as restricting the development of self-government and self-management arrangements not tied to indigenous territory and resources.

6. The autonomy and self-government of indigenous peoples are beneficial to the protection of the natural environment and the maintenance of ecological balance which helps to ensure sustainable development.

7. Indigenous autonomies and self-governments must, within their jurisdiction, assure the full respect of all human rights and fundamental freedoms and popular participation in the conduct of public affairs.

8. Autonomy and self-government can be built on treaties, constitutional recognition or statutory provisions recognizing indigenous rights. Further, it is necessary for the treaties, conventions and other constructive arrangements entered into in various historical circumstances to be honoured, in so far as such instruments establish and confirm the institutional and territorial basis for guaranteeing the right of indigenous peoples to autonomy and self-government.

9. Autonomy and self-government are essential for the survival and further development of indigenous peoples and are a basis for international cooperation and bilateral and multilateral legal arrangements.

10. Indigenous peoples have the right to be different, to consider themselves as different and to be considered and respected as such, as recognized in the Declaration on Race and Racial Prejudice, adopted by the United Nations Educational, Scientific and Cultural Organization in 1978.

11. Within States, autonomy and self-government for indigenous peoples contribute to peaceful and equitable political, cultural, spiritual, social and economic development.

12. Subject to the freely expressed desire of the indigenous peoples concerned, autonomy and self-government include, inter alia, jurisdiction over or active and effective participation in decision-making on matters concerning their land, resources, environment, development, justice, education, information, communications, culture, religion, health, housing, social welfare, trade, traditional economic systems, including hunting, fishing,

herding, trapping and gathering, and other economic and management activities, as well as the right to guaranteed financial arrangements and, where applicable, to levy taxes for financing these functions.

13. Autonomy and self-government arrangements are to be faithfully respected. They may only be amended by a new agreement between the parties to the original agreement or in accordance with established constitutional or legal procedures.

14. Arrangements should be made for the prevention of potential conflicts of competence. An effective, independent and impartial mechanism for solving disputes between the self-government and the State should be established by constitutional provisions or by law. Equal representation of the self-government in this mechanism should be guaranteed.

15. Where autonomies and self-governments are affected by matters outside their jurisdiction, including actions taken by the regional and local governments of federated States, they should be closely involved in the planning stages of these activities and their consent should be obtained by States before these activities are implemented.

16. The Meeting of Experts recommends that States should undertake, if they have not already done so, regular periodic reviews, together with indigenous peoples through their own organizations, of the obstacles to autonomy and self-government and take the measures agreed upon to overcome them and to promote fully significant processes of construction of autonomy or self-government.

17. The Meeting of Experts recommends that where State borders pose obstacles to free movement, trade and communications among members of indigenous autonomies and self-governments, States must undertake arrangements to eliminate these obstacles.

18. The Meeting of Experts furthermore recommends that States should consider favourably the ratification of international instruments relevant to the situation of indigenous peoples, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and Convention No. 169 of the International Labour Organization.

19. The Meeting of Experts recommends that States should cooperate by providing the means for training necessary to assist indigenous peoples in the exercise of autonomy and self-government.

20. The Meeting of Experts invites Governments to support, by providing adequate resources, the United Nations Centre for Human Rights and the International Labour Office with the publication and distribution of a manual on autonomy and self-government (see annex II).

21. The Meeting of Experts recommends that existing advisory services and technical assistance programmes within the United Nations system should be used and enlarged, if need be, to finance training for indigenous peoples and autonomous and self-governmental institutions.

22. The Meeting of Experts recommends that the question of the rights of indigenous peoples and the protection thereof should be dealt with on a permanent basis within the United Nations. The Meeting recommends to the Commission on Human Rights that it consider the possibility of establishing international monitoring mechanisms to deal with indigenous peoples.

23. The Meeting of Experts recommends that the conclusions and recommendations of the Meeting be considered for inclusion among the themes of the International Year for the World's Indigenous People, 1993.

24. The Meeting of Experts requests the Secretary-General to give the widest possible distribution to the report, recommendations and working papers of this Meeting, including distribution of the report and recommendations to the General Assembly at its forty-seventh session, the Commission on Human Rights at its forty-eighth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-fourth session, and the Working Group on Indigenous Populations at its tenth session, and to Governments and competent international, intergovernmental and non-governmental and regional organizations and other international forums; and that the present report, recommendations and working papers be issued as a United Nations publication.

III. TECHNICAL CONFERENCE ON PRACTICAL EXPERIENCE IN THE REALIZATION OF SUSTAINABLE AND ENVIRONMENTALLY SOUND SELF-DEVELOPMENT OF INDIGENOUS PEOPLES

(Santiago, 18-22 May 1992)

64. At its 9th meeting, held on 22 May 1992, the Technical Conference considered and adopted the following conclusions and recommendations:

THE SANTIAGO CONCLUSIONS AND RECOMMENDATIONS ON INDIGENOUS PEOPLES AND THE ENVIRONMENT

The United Nations Technical Conference on Indigenous Peoples and the Environment, meeting in Santiago, Chile, from 18 to 22 May 1992, recognizes that the sustainable and environmentally sound development of indigenous peoples, in accordance with their practices, is essential for their survival and well-being as peoples and for the sustainability of the ecological systems on which they depend. Ultimately, this will contribute to the healthy survival of the ecological systems of the world.

These goals cannot be achieved without the realization of the rights of indigenous peoples which include the restoration and provision of land and other resources as well as the rights to use and develop those resources as they determine. Recognition and implementation of the rights of indigenous peoples is also a means of redressing injustices, including the dispossession of lands and other resources, and of enabling indigenous peoples to live with greater self-sufficiency and dignity.

Traditionally, indigenous peoples lived in sustainable and harmonious relationships with their lands and environment. They possessed a deep knowledge, understanding and management experience of the ecological systems

on which they depended. The ability of indigenous peoples to apply and develop this knowledge to their lands, and to share this knowledge with others, is vital for overcoming environmental degradation throughout the world. It is also an important factor in the achievement of equitable and sustainable living conditions for all the peoples of the world.

The following are the working principles that emerged from the Technical Conference. It is considered that they incorporate many of the concerns and practical experiences of indigenous peoples in the realization of sustainable and environmentally sound self-development that were expressed by those who attended the Conference. These working principles may not necessarily reflect the views of Governments. These principles are:

I

1. The importance of recognizing and providing for the enduring and permanent existence of indigenous peoples and their rights.

2. Recognition and respect for the integrity of the environment as a living system essential to the survival of all humankind.

3. Recognition, protection and respect for indigenous knowledge and practices that are essential contributions to the sustainable management of the environment.

4. The need for the restoration, provision and rehabilitation of resources (including lands and territories) to indigenous peoples and the right to use and develop those resources as they so determine.

5. The right of indigenous peoples to determine their own development and control their own institutions.

6. The equality of participation between indigenous peoples and Governments in negotiations on matters affecting indigenous rights.

7. The maintenance and development of indigenous languages and cultures.

8. The above working principles should be recognized within a mutually acceptable legal framework.

In accordance with these working principles, the Technical Conference proposes the following recommendations:

II

9. That projects of national development which affect indigenous peoples be preceded by studies of their socio-economic and environmental impact, with the direct and effective participation of indigenous peoples, Governments and the agencies promoting development.

10. That the United Nations system, with the consent of indigenous peoples, take measures for the effective protection of property rights (including

the intellectual property rights) of indigenous peoples. These include, inter alia, cultural property, genetic resources, biotechnology and biodiversity.

11. That the meetings of agencies within the United Nations system on indigenous peoples always include indigenous representation, provide adequate notice and, when possible, be held on indigenous territories.

12. That the World Bank and other multilateral financial institutions consult with indigenous peoples and develop adequate procedures for the participation of indigenous peoples in the planning, implementation and evaluation of processes of self-development.

13. That the United Nations system, other international bodies and bilateral programmes, with the consent of indigenous peoples, promote research by indigenous experts into indigenous knowledge, practices and technology and disseminate information about the collective nature and close spiritual and material relationship with the land of indigenous peoples and that funds be provided for that purpose.

14. That the environmentally sound management of resources and ecosystems of indigenous peoples be encouraged through the provision of the necessary funds so that an adequate standard of living can be guaranteed.

15. That, where appropriate, Governments provide adequate funding to enable indigenous peoples to participate effectively in negotiations for the restoration, rehabilitation and demarcation of lands, territories and other resources.

16. That mechanisms and resources be developed at the national and international levels to ensure the peaceful resolution of conflicts which may occur between indigenous peoples, States and other sectors of society.

17. That appropriate mechanisms and resources be developed to provide legal and technical assistance to indigenous peoples for the promotion of their rights and sustainable management of the environment.

18. That biosphere reserves and natural parks in indigenous territories be established only with the consent of indigenous peoples and with their active participation, control and management.

19. That intergovernmental and national development organizations with the active participation of indigenous peoples take account and recognize the knowledge, practices and technologies of indigenous peoples when rehabilitating the environment.

20. That the United Nations, international organizations providing financial and technical assistance and States, including their bilateral programmes of cooperation, recruit indigenous people as expert advisers on matters affecting them, particularly in relation to project and programme planning on the environment.

21. That the Centre for Human Rights, in collaboration with indigenous peoples' organizations and other interested parties, prepare and disseminate a manual on indigenous peoples' knowledge and experiences in development and conservation of the environment.

22. That intergovernmental, governmental and non-governmental organizations support the exchange among indigenous peoples of technical and cultural experience and knowledge of indigenous peoples on environment and sustainable development.

23. That there is coordination of national legislation dealing with the legal definition of indigenous peoples, their land, customary laws, resources and access to resources and the sustainable management and development thereof.

24. That support be given to the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean, and that consideration be given to the creation of similar funds in Africa, Asia, the Pacific and other regions.

25. That States, which have not yet done so, ratify ILO Convention No. 169.

26. That the International Year for the World's Indigenous People (1993) be considered an opportunity to define and consolidate indigenous peoples' rights and that States and the United Nations system provide funds for development activities.

27. That appropriate mechanisms be developed at the international and national levels to identify, prevent and provide sanctions against environmental degradation.

28. That the contribution and effective participation of indigenous women be taken into account in all issues and activities related to development and the environment which affect indigenous peoples.

29. That the United Nations consider holding further expert meetings on matters of concern to indigenous peoples, in particular, on questions concerning the environment, land, resources and culture.

30. That the Secretary-General give the widest possible distribution to the report, recommendations and background papers of the Technical Conference, including distribution of the report and recommendations to the United Nations Conference on Environment and Development, to the General Assembly at its forty-seventh session, the Commission on Human Rights at its forty-ninth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-fourth session, and the Working Group on Indigenous Populations at its tenth session, and to Governments, competent international, intergovernmental and non-governmental as well as regional organizations and other international forums.